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DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-802]

Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation: Preliminary Results of 2017-2018 Administrative Review and Postponement of Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (the Agreement). We preliminarily find that the State Atomic Energy Corporation “ROSATOM” (ROSATOM), its affiliates TENEX, Joint-Stock Company (TENEX) and TENEX-USA, Incorporated (TENEX-USA), and TENEX’s unaffiliated resellers, Centrus Energy Corp. and United States Enrichment Corporation (collectively, Centrus) and Nukem, Inc. (Nukem), are in compliance with the Agreement.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Jill Buckles, Bilateral Agreements Unit, Enforcement and Compliance, International Trade Administration, U.S.

Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0162 or (202) 482-6230, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1992, Commerce signed an agreement with the Russian Federation’s Ministry for Atomic Energy (MINATOM), the predecessor to ROSATOM, under section 734(l)

of the Tariff Act of 1930, as amended (the Act), suspending the antidumping duty investigation on uranium from the Russian Federation.¹ There have been five amendments to the Agreement, the most recent of which was signed on February 1, 2008.² Section 8118 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, codified at 42 U.S.C. § 2297h et seq. (2008) (Domenici Amendment) established import limitations through 2020 that in large part mirror the export limits instituted in the 2008 amendment to the Agreement. On February 2, 2010, Commerce issued its Statement of Administrative Intent (SAI) which provided implementation guidance related to the 2008 amendment.

On October 1, 2018, Commerce notified interested parties of the opportunity to request an administrative review of the Agreement.³ On October 26, 2016, domestic interested party Louisiana Energy Services LLC (LES) submitted a request for an administrative review of the Agreement. On December 11, 2018, Commerce published in the *Federal Register* a notice initiating an administrative review of the Agreement.⁴ The period of review (POR) is October 1, 2017 through September 30, 2018. On April 24, 2019, Commerce issued questionnaires to ROSATOM, TENEX, and any other affiliated or unaffiliated exporters and resellers, as applicable. For a complete description of the events that followed the initiation of this

¹ See Antidumping; Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan; Suspension of Investigations and Amendment of Preliminary Determinations, 57 FR 49220, 49235 (October 30, 1992) (1992 Suspension Agreement).

² See Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 59 FR 15373 (April 1, 1994) (1994 Amendment); Amendments to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 61 FR 56665 (November 4, 1996) (1996 Amendments); Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 62 FR 37879 (July 15, 1997) (1997 Amendment); and Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, 73 FR 7705 (February 11, 2008) (2008 Amendment).

³ See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 83 FR 49358 (October 1, 2018).

⁴ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 83 FR 63615 (December 11, 2018).

administrative review, *see* the Preliminary Decision Memorandum.⁵ The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of Review

The product covered by this Agreement is natural uranium in the form of uranium ores and concentrates; natural uranium metal and natural uranium compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing natural uranium or natural uranium compounds; uranium enriched in U²³⁵ and its compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing uranium enriched in U²³⁵ or compounds of uranium enriched in U²³⁵; and any other forms of uranium within the same class or kind.

Imports of uranium ores and concentrates, natural uranium compounds, and all forms of enriched uranium are currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 2612.10.00, 2844.10.20, 2844.20.00, respectively. Imports of natural uranium metal and forms of natural uranium other than compounds are currently classifiable under HTSUS subheadings: 2844.10.10 and 2844.10.50. HTSUS subheadings are

⁵ *See* Memorandum to Jeffrey I. Kessler, Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for the Preliminary Results of the 2017-2018 Administrative Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation," dated concurrently with and adopted by this notice.

provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.

Methodology and Preliminary Results

Commerce is conducting this review in accordance with section 751(a)(1)(C) of the Act, which specifies that Commerce shall “review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.” In this case, Commerce and MINATOM (the predecessor to ROSATOM) signed the Agreement on October 16, 1992, which was subsequently amended on March 11, 1994, October 3, 1996, May 7, 1997, and February 1, 2008. Section 734(l) provides that Commerce may suspend an investigation upon acceptance of an agreement with a non-market-economy country⁶ to restrict the volume of imports into the United States, if Commerce determines that such an agreement is in the public interest, effective monitoring is practicable, and the agreement “will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.”

After reviewing the information submitted in initial and supplemental questionnaire responses and related new factual information and comments from interested parties in this administrative review, we preliminarily find ROSATOM, TENEX, TENEX-USA, Centrus, and Nukem to be in compliance with the terms of the Agreement and the SAI during the POR. Commerce reviewed the export certificates, invoices, contracts, contract amendments, shipment approval request documentation, Commerce contract and shipment approval memoranda, Master Export Schedules, and other information contained in questionnaire responses submitted on the

⁶ Because Commerce determined that the Russian Federation was a non-market economy at the time the Agreement was signed, the Agreement was entered into under section 734(l) of the Act, which applies to non-market-economy countries.

record of the administrative review by the respondents for completeness and compliance. In particular, we examined compliance with the Agreement's Section IV.B.1 and IV.H export limits, with Sections IV.E, V.C, V.F, VII.D, Appendix 2, and Appendix 3 of the Agreement, with the requirements of the SAI, and with Commerce's returned feed certification requirements. Based on our review of the record evidence, we preliminarily found no evidence of non-compliance by respondents, as applicable, with regard to Sections IV.B.1, IV.H, IV.E, V.C, VII.D, Appendix 2, and Appendix 3 of the Agreement and with regard to the returned feed certification requirements. Regarding the Section V.F and SAI contract and contract amendment approval requirements, we reviewed information on the record and preliminarily found respondents to be in compliance during the POR. However, we requested clarifying information from TENEX with regard to certain contracts, contract amendments, and side letters applicable to sales and exports during the POR in a supplemental questionnaire, the response for which will be due to Commerce after these preliminary results. In addition, Commerce intends to issue a supplemental questionnaire to Centrus, the response for which will also be due after these preliminary results. As these responses, and any interested party submissions of rebuttal new factual information, will be received after issuance of these preliminary results, we intend to continue our examination of compliance in a post-preliminary analysis.

A review of information in initial and supplemental questionnaire responses also shows that effective monitoring of the Agreement is practicable. The Agreement and subsequent SAI guidance provide numerous tools for Commerce to effectively monitor compliance with the export limits, both under Section IV.B.1 (domestic consumption) and Section IV.H (re-export), for Russian Uranium Products. As discussed above, Commerce has preliminarily found respondents to be in compliance with not only the contract, contract amendment, and shipment

approval requirements of Sections V.C and V.F and the SAI but also the reporting requirements in Appendix 2 and Appendix 3 of the Agreement and the SAI. The structure of the Agreement, combined with the requirements of the SAI and Commerce's contract, contract amendment, and shipment approval memoranda, provide Commerce with the necessary tools to monitor compliance with the Agreement and establish corresponding procedures, such as the reporting requirements in Appendix 3 for example, that ensure ROSATOM and its affiliates will restrict their sales and exports in compliance with the Agreement's export limits. Therefore, we preliminarily find that the Agreement continues to meet the statutory requirement, pursuant to section 734(d)(2) of the Act, of being able to be effectively monitored.

Regarding the statutory requirements of sections 734(d)(1) and 734(l)(1)(B) of the Act, Commerce finds that it requires additional time and information in order to complete its examination of whether the Agreement continues to meet these statutory requirements, particularly since interested parties still have the opportunity to submit new factual information and comments on information and supplemental questionnaire responses received, and still to be received, on the record. In light of interested parties' comments to date, the voluminous information on the record of this administrative review and from the previous administrative review still under consideration, and the complex nature of the statutory requirements, *i.e.*, that the Agreement prevent price suppression or undercutting and be in the public interest, Commerce needs more time to examine related new factual information and comments received, and to be received, from interested parties on the broader issues related to whether the Agreement remains in the public interest and whether it continues to prevent price suppression and undercutting. Therefore, we intend to continue our examination after the issuance of these preliminary results in order to reach a full preliminary determination on whether the Agreement has been complied

with during the POR and whether the Agreement continues to meet the statutory requirements set forth in section 734(l) of the Act. Commerce intends to issue a post-preliminary analysis as soon as practicable. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Disclosure and Public Comment

As discussed above, Commerce needs additional information and additional time to review the information received before making a definitive preliminary finding. Therefore, we intend to issue a post-preliminary analysis on these issues as soon as practicable. The comment period on these preliminary results as well as the post-preliminary analysis will be stated with the release of the post-preliminary analysis. At that time, interested parties will have the opportunity to submit case and rebuttal briefs.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically filed document must be received successfully in its entirety by Commerce's electronic records system ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.⁷

⁷ *See* 19 CFR 351.310(c).

Postponement of Final Results

Section 751(a)(3)(A) of the Act, requires Commerce to complete the final results of an administrative review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2) allow Commerce to extend the time limit for the final results to a maximum of 180 days after the date on which the preliminary results are published.

We determine that it is not practicable to complete the final results of this administrative review within 120 days from the date of publication of these preliminary results. Commerce requires additional time to analyze supplemental questionnaire responses and submissions of factual information, complete our examination, issue our post-preliminary analysis, potentially conduct verification of questionnaire responses, and allow for case briefs and rebuttal briefs on our preliminary and post-preliminary results. Accordingly, Commerce is extending the deadline for the final results of this administrative review by 60 days. The final results of the review will now be due no later than 180 days from the date of publication of these preliminary results.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(l) and 777(i)(l) of the Act and 19 CFR 351.213.

Dated: December 10, 2019.

Jeffrey I. Kessler,
Assistant Secretary

for Enforcement and Compliance.

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